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Frances Doyle

Attorney Docket No.: 2703/FBR (031035-00060)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor : Nicholas Luke Bennett
Serial No. : 09/308,005
Filed : May 10, 1999
Title : Gaming Machine
Examiner : Minh H. Trinh
Group Art Unit : 3729
Confirmation No. : 5591

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Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

ELECTION

Sir:

An Office Action was mailed on March 12, 2004. In such Office Examiner, the Examiner required a restriction between Group I, claims 35-53, and Group II, claims 54-60. The Examiner required a further restriction of Group I between Species 1A, where a player makes a selection of a series of indicia chosen from a larger group of indicia, and Species 1B, where a player makes a selection of a series of numbers chosen from a larger group of numbers.

Applicant has reviewed the Examiner's restriction requirement and cannot understand the logic and reasoning behind such requirement. Thus, Applicant respectfully traverses the

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restriction requirement as noted below, but hereby elects Group I, claims 35-53, for prosecution on the merits.

With respect to the restriction of Groups I and II, Applicant notes that the method claims 54-60 are simply the method as being carried out by the gaming machine of claims 35-53 and therefore, are clearly directed to the same general inventive concept.

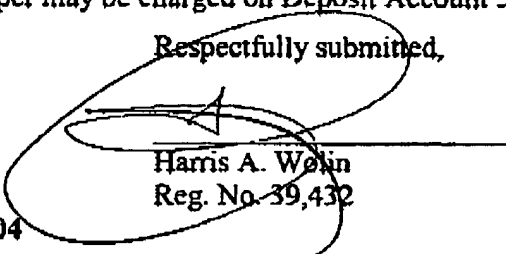
With respect to the further restriction of Group I into Species 1A and 1B, Applicant respectfully notes that an indicia is a distinctive mark that indicates the nature or quality or existence or reality of something and that a number is an indicia and therefore Species 1A and Species 1B do in fact relate to the same invention. The present invention is derived from the traditional keno type game. As the Examiner may appreciate, in keno a series of numbers are matched against one another. A player wins if their numbers match the numbers drawn at random in the keno game. However, whether the indicia are number, letters, hieroglyphs or some other form of symbol makes no difference at all to the way in which the game actually functions. For example, although keno traditionally relies on picking numbers, the game equally played by picking and matching letters of the alphabet or other symbols or characters.

Thus, it is difficult to understand the Examiner reliance and distinction on the difference between a number and an indicia, whereas a number is very clearly a particular type of indicia. For example, the Examiner is directed to claim 36, which reads "The gaming machine as claimed in claim 35, wherein the indicia *are numbers* ..."

For the foregoing reasons, reconsideration is respectfully requested.

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Respectfully submitted,


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